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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/864,927

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Lee E. Cannon

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EXAMINER

WONG, JEFFREY KEITH

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

09/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	09/864,927		CANNON ET AL.	
	Examiner		Art Unit	
	Jeffrey K. Wong		3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34,35,38,64,68,69 and 88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34,35,38,88-64,68-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/26/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Application

1. This Office-Action acknowledges the Request for Reconsideration filed on 8/26/2009 and is a response to said request.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34, 38, 58-59, 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US PUB 2001/0055990 (Acres) in view of Pascal 2003/0130041 (Pascal) and Bennett, US 6/572,471 (Bennett)

Regarding Claim 34, 58

Acres discloses of a slot machine (Abstract) that can have its rate of play changed (Abstract, para 52 and 55) in order to change payback percentages (Abstract) because it would be desirable for the casino to set the cost to the player at a higher level during high demand periods and at a lower level, to attract players, during low demand periods(Para 12).

Acres failed to disclose that the gaming machines can be configured for tournament play.

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However, Pascal teaches of a system for playing games of chance, and more particularly to a method and apparatus for allowing a number of players to participate simultaneously in a tournament using a plurality of gaming terminals networked together and under control of a master terminal(para 2) because it would make tournament play more available to all who would enjoy the play, simplify the establishment's monitoring requirements, and reduce overhead expense(para 6).

Acres fails to disclose the tournament being initiated in response to the occurrence of a qualifying outcome of the at least one primary game of chance.

However, Bennett teaches of a slot machine (Col 1, lines 8-10) that has the ability to go into a tournament mode based on the outcome of a primary game (Col 2, lines 33-52 and Col 6, lines 46-50) wherein the qualifying of the at least one primary game of chance is winning the at least one primary game of chance or is based on multiple wins of the at least one primary game of chance (Col 2, lines 33-53. In this case, the special bonus feature of future games is viewed as tournament play) as means of keeping players amused and therefore willing to continue playing (Col 1, lines 16-17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the variable slot machine of Acres' invention, with slot machine tournament teachings of Pascal and the primary game qualification teachings of Bennett's invention because it would attract players to the machine during low demand periods as well as reduce overhead expense as taught by Pascal and keep players amused and to continue on playing which will earn the casino more revenue

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over time as taught by Bennett.

Regarding Claim 38.

Pascal discloses of how the tournament game will revert back to normal after a predetermined period of time.(Abstract)

Regarding Claim 59.

Acres teaches of how the rate of play can be changed based on the time of day (para 42. In this case, the time can be viewed as automatically set.)

Regarding claim 64

Pascal discloses qualifying for play in the tournament game by tendering a wager (Abstract. In this case, the wager is the entry fee)

Claims 35, 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US PUB 2001/0055990 (Acres) and Pascal 2003/0130041 (Pascal) and Bennett, US 6,572,471 (Bennett) in view of Giacalone, US 5,758,875 (Giacalone).

Regarding Claim 35

Giacalone teaches of a rate control (Abstract) that can be used to adjust the play speed of a gaming machine such as a slot machine (Col 4, lines 7-25) in order to contribute to the feeling that the player was at least partially in control of the operation of the gaming machine (Col 1, lines 34-36) and delays the onset of boredom and allows the players to

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play the game at the frequency which is most comfortable to him (Col 2, lines 41-43).

It would have been obvious to incorporate such a teaching with the above invention to give players the feeling that the player was at least partially in control of the operation of the gaming machine which will delay the onset of boredom as taught by Giacalone.

Regarding Claim 55.

Giacalone teaches of how the rate of play can be changed during completion of game play (Col 4, lines 20-25. In this case, the number of plays can be viewed as 1)

Regarding Claims 56-57.

Giacalone teaches of how the rate of play can be increased or decreased (Abstract).

Claims 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US 6,368,218 (Acres) and Pascal 2003/0130041 (Pascal) and Bennett, US 6,572,471 (Bennett) and Giacalone, US 5,758,875 (Giacalone) in view of Angell, Jr. (US 6,368,218 B2).

Regarding Claims 60-62

Angell teaches the play of a game tournament wherein players are required to play at some minimum rate of play else the game machine will automatically conduct play of the tournament for them so slower inattentive players do not stop the game (Col 4, lines 7-16).

Therefore it would have been obvious to one of ordinary skill in the art at the time of

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applicant's invention to include the automatic minimum rate of play feature of Angell with the combined teachings Acres, Pascal and Bennett as discussed in the rejection of Claim 34 so slower inattentive players do not stop the game as taught by Angell

Regarding Claim 63

Giacalone teaches a dynamic rate control method and apparatus for electronic games of chance which take samples of the rate of play of the gaming device to obtain a standard rate of play and adjust the rate of play accordingly (Col 3, lines 14-17).

Giacalone is related to the prior art because it pertains to adjustments of rates of play for electronic gaming machines, therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to obtain a standard rate of play using sampling techniques taught by Giacalone in order to contribute to the feeling that the player was at least partially in control of the operation of the gaming machine (Col 1, lines 34-36) and delays the onset of boredom and allows the players to play the game at the frequency which is most comfortable to him (Col 2, lines 41-43).

It would have been obvious to incorporate such a teaching with the above invention to delay the onset of boredom as taught by Giacalone.

Response to Arguments

3. Applicant's arguments filed 8/26/2009 have been fully considered but they are not persuasive. Applicant alleges:

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“There is absolutely no disclosure in Bennett of initiating a tournament game of chance in a multi-player tournament in response to the occurrence of one or more qualifying outcome events of a primary game of chance. Rather, in Bennett, the controller 101 decides, apparently arbitrarily, when to initiate tournament play. The initiation of tournament play does not occur in response to a qualifying outcome event of Bennett's base slot game.” The Examiner disagrees. Col 6, lines 47-48, states “when the tournament is triggered during play of the base slot game”. This is viewed as adequate reasoning to believe that tournament play is triggered as a result of the outcome of a primary game. Bennett does not explicitly disclose what the exact outcome would be that can result in the triggering of tournament play, however, Col 1, lines 56-67 and Col 2, lines 32-53, teaches that players are presented with game image having a plurality of player selectable elements to which said player selectable elements are associated with a prize such as a multiplier, a monetary amount, a jackpot, a physical prize, or a bonus feature or bonus games. In this case, it would be obvious to one of ordinary skill in the art would to realize that it is possible a player selectable element can result in the triggering of tournament play. The Examiner does not believe that the controller 101 decides arbitrarily when to initiate tournament play as the applicants seems to believe. While Bennett seems to be silent on exactly what outcome would result in the triggering of tournament play, it is more likely that such a trigger would be a result of a primary game's outcome than that of an arbitrary decision. This is because the reference discloses about player selectable elements and prizes and features associated with such selections. It is reasonable to believe that the triggering of tournament play would

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coincide with the scope of the invention, the selection of player selectable elements and their associated awards. To further elaborate, the passage "when the tournament is triggered during play of the base slot game" makes for a strong interpretation to one of ordinary skill in the art to believe that an outcome of a base slot game would result in the triggering of tournament play.

"Unlike Applicants' claimed invention, Acres does not change the permitted rate of game play of a tournament game in response to an occurrence of a specific game outcome which may occur during play of the tournament game. Instead, in Acres, the game speed of a primary game is changed "in accordance with the demand on the casino floor." (0012). That is, the game speed is increased and the payback percentage decreased during high demand periods. (Id). Therefore, for at least these reasons, Applicants' claimed invention as set out in claim 34 and its dependent claims would not have been obvious in view of Acres, Pascal et al. and Bennett." The Examiner disagrees. Acres teaches in paragraph 52 that the rate of play can be changed as a result of a specific outcome. In this case, there is a first period for a bonus where a second period will occur when a player wins the bonus. In this case, it is obvious that a certain game outcome will have to occur in order for the player to achieve the bonus which will then result in the second period commencing. Therefore, the rate of game play changes in response to an occurrence of a specific game outcome.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey K. Wong whose telephone number is (571)270-3003. The examiner can normally be reached on M-Th 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Primary Examiner, Art Unit 3714

JKW